

ENTERED

August 12, 2024

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

JAMES ROBERT HATTENBACH, §
§
Plaintiff, §
V. § CIVIL ACTION NO. 2:23-CV-00179
§
LOWELL TIMOTHY JAROE, *et al.*, §
§
Defendants. §

ORDER ADOPTING MEMORANDUM & RECOMMENDATION

Before the Court is Magistrate Judge Julie K. Hampton's Memorandum and Recommendation ("M&R"). (D.E. 11). The M&R recommends that the Court dismiss certain claims and retain certain claims. (D.E. 11, p. 1–2). Specifically, the M&R recommends:

- Plaintiff's Fourteenth Amendment failure-to-protect claims against Mayor Lowell Timothy Jayroe and Sheriff John Harrell in their official capacities be dismissed without prejudice;
- Plaintiff's Fourteenth Amendment failure-to-protect claims against Aransas County and the City of Rockport be dismissed without prejudice;
- Plaintiff's Fourteenth Amendment failure-to-protect claim against Sheriff John Harrell in his individual capacity be retained; and
- Plaintiff's remaining § 1983 claims be dismissed with prejudice as frivolous or for failure to state a claim upon which relief can be granted.

Id.

The parties were provided proper notice of, and the opportunity to object to, the Magistrate Judge's M&R. See 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b); General Order No. 2002-13. No objection has been filed. When no timely objection has been filed, the district court need only

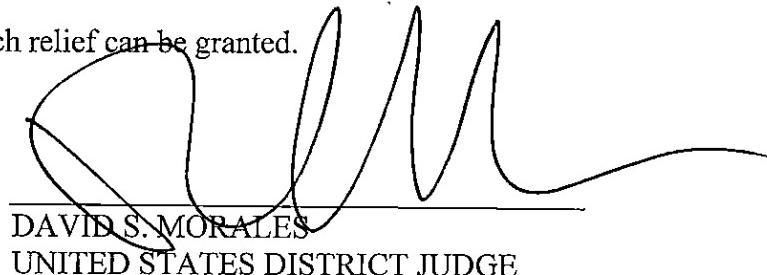
determine whether the Magistrate Judge's M&R is clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (per curiam); *Badaiki v. Schlumberger Holdings Corp.*, 512 F. Supp. 3d 741, 743–44 (S.D. Tex. 2021) (Eskridge, J.).

Having reviewed the proposed findings and conclusions of the Magistrate Judge, the filings of the parties, the record, and the applicable law, and finding that the M&R is not clearly erroneous or contrary to law, the Court **ADOPTS** the M&R in its entirety. (D.E. 11). Accordingly, the Court

ORDERS:

- Plaintiff's Fourteenth Amendment failure-to-protect claims against Mayor Lowell Timothy Jayroe and Sheriff John Harrell in their official capacities be **DISMISSED without prejudice**;
- Plaintiff's Fourteenth Amendment failure-to-protect claims against Aransas County and the City of Rockport be **DISMISSED without prejudice**;
- Plaintiff's Fourteenth Amendment failure-to-protect claim against Sheriff John Harrell in his individual capacity be **RETAINED**; and
- Plaintiff's remaining § 1983 claims be **dismissed with prejudice** as frivolous or for failure to state a claim upon which relief can be granted.

SO ORDERED.



DAVID S. MORALES
UNITED STATES DISTRICT JUDGE

Dated: Corpus Christi, Texas
August 11, 2024